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June 17, 1998

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By Hand Delivery

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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JUN 17 1998

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Re: **EX PARTE**
CC Docket No. 96-61

Dear Ms. Salas:

Yesterday, June 16, 1998, David Joseph-Lacagnina of Salestar, George David of CCMI, and Kim Russo of Tele-Tech Services, members of the Telecommunications Management Information Systems Coalition, and the undersigned met with Kevin Martin, Legal Advisor to Commissioner Harold Furchtgott-Roth. We restated our previous arguments set forth in the pleadings filed in the above-captioned proceeding and in the attached talking points.

Two copies of this letter have been submitted to the Secretary of the Commission for inclusion in the public record, as required by Section 1.1206(b)(2) of the Commission's rules.

Sincerely,

Cheryl A. Tritt / JEN

Cheryl A. Tritt
Counsel for the Telecommunications
Management Information Systems
Coalition

cc: Kevin Martin

dc-119814

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**DETARIFFING PROCEEDING
CC DOCKET NO. 96-61
JUNE 9, 1998 EX PARTE PRESENTATION**

- The Telecommunications Management Information Systems Coalition is composed of three companies formed for the purpose of participating in this proceeding -- Salestar, CCMI and Tele-Tech. These companies are small businesses of long standing that have provided essential pricing information to their customers for the past 10-25 years. They all gather on behalf of their customers publicly available pricing information and then abstract this information or create databases and various software pricing tools utilizing his information.
- The Coalition urges the Commission to reinstitute its earlier-adopted public disclosure requirement for mass market services.

Elimination of the information disclosure requirement is contrary to the public interest.

- Without information, consumers cannot obtain sufficient information to make informed decisions about complex choices available from multitude of carriers.
 - Consumers want this information -- recent survey commissioned by Salestar, in which 85% opposed FCC's elimination of information disclosure requirement.
 - Small to medium-sized business and residential customers especially need this information given the difficulty of obtaining it independently.
 - Information gathered and distributed to customers by the Coalition includes not only rates, but also charges such as the SLC, PICC, and Universal Service pass-through, which is helpful for both consumers and regulators, because without tariffs, these charges (and their calculation methodologies) are not always transparent on customer bills.
 - Contrary to FCC's conclusion, billing and marketing materials are not sufficient.
 - ❖ Billing information is available only to existing customers, not potential customers making initial service decisions.

- ❖ Bills are notoriously inaccurate and difficult to understand -- National Regulatory Research Institute study, shows between 20-25% of survey respondents reported billing errors in past 12 months, with majority involving long distance billing problems.
 - ❖ Marketing materials are incomplete at best, because carriers advertise only the services they have targeted for specific customers.
 - ❖ Marketing materials are inaccurate or confusing at worst. National Consumers League study showed 71% of survey participants found telecom advertising to be "confusing," with 28% finding it "very confusing".
- Without information, the FCC will be unable to enforce Section 254(g).
 - FCC's initial decision concluded that publicly available information was necessary for this enforcement purpose and that carrier certifications were insufficient.
 - Without additional information on record, FCC reversed course.
 - Although FCC and state agencies can still obtain this information, they have limited resources and still rely upon public as guardians of complaint process.
 - Many states that have implemented partial detariffing have continued to require some sort of price list, *e.g.*, Delaware, Oregon, Arizona, New Mexico, Colorado, Washington, and Connecticut, which indicates that the availability of this information still serves important enforcement purposes.
 - At same time as information is limited, FCC has raised the threshold for pleading formal complaints, further limiting likelihood of effective enforcement by public.
 - FCC concerns about price coordination are not eliminated by abandoning the information disclosure requirement.
 - In a competitive market more information helps the market to function more efficiently. The FCC has long characterized the long distance market as robustly competitive.
 - FCC also acknowledged that large and sophisticated competitors will still be able to obtain each other's pricing information. Elimination of information disclosure thus fails to address any

threat (if any exists) of price collusion but definitely deprives consumers of access to this important information.

- Disclosure of actual current prices is highly unlikely to serve as a vehicle to coordinate prices in any event because it provides no advance assurance that competitors would follow any price increase. For example, when DOJ investigated and settled - allegations of airline price fixing, the settlement prohibited the dissemination of pricing information for fares that were not currently for sale, but it permitted the continued dissemination of current fares.
- Any remaining hypothetical risk of collusive pricing is diminished by availability of Section 201 of the Act and federal and state antitrust laws, upon which the Commission has consistently relied. Reliance on these remedies can mute any remaining risks of collusion without depriving consumers of access to important information.